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Human Rights Committee

Concluding observations on the third periodic report of Latvia

Addendum

Information received from Latvia on follow-up to the concluding observations*

[Date received: 27 March 2017]

1. The present Additional information (Additional Information) has been prepared by the Government of the Republic of Latvia (the Government) in response to the request made by the United Nations Human Rights Committee (the Committee) on 16 August 2016.

2. The present document contains explanations that are additional to the follow-up report submitted by the Government to the Committee on 4 November 2015, pursuant to paragraph 23 of the Concluding Observations on the Third Periodic Report on the implementation of the 1966 International Covenant on Civil and Political Rights in the Republic of Latvia during the period from 2004 until 2008. The Government wishes to emphasise that all further information on the implementation of the Covenant will be submitted in the framework of next periodic report of Latvia that is due by 28 March 2020 (see paragraph 24 of the Concluding Observations adopted by the Committee in March 2014).

As regards paragraph 15 of the Concluding Observations

3. The Government would like to reiterate that the Regulation of the Cabinet of Ministers No. 283 On the Order for the Use of the Special Measures by the Officials of the Places of Detention provides a comprehensive normative framework for the use of special measures such as physical restraints. This regulation foresees that an officer is entitled to use the special measures in exceptional cases only, in order to prevent an offence, disturbances, or an attempt to escape. An officer decides on the type of a special measure and intensity of its use, taking into account the particular situation, level of danger, possible consequences, and individual characteristics of an inmate or other person concerned. Such an on-spot and individualised assessment prevents and limits the harm that might be inflicted by the use of physical restraints.

4. Pursuant to Article 12 of the afore-said Regulation restraints such as handcuffs or means to tie-down an inmate is removed during medical examination, except when the person acts aggressively and dangerously, presents or may potentially (that is, based on sufficient grounds) present a risk to himself/herself, as well as to health and life of others. In accordance to Article 18 during a visit to a medical institution an officer handcuffs an

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inmate if there are sufficient grounds to believe that the inmate may inflict harm to himself/herself or endanger the life and health of others, attack the officer or a medical practitioner or other person, or may escape.

5. The use of the physical restraints is justified by the fact that in a medical facility an inmate has direct access to medical equipment, including sharp and pointed objects that present a risk and may be used for attacking either an officer or medical personnel. When deciding upon the use of handcuffs in a medical facility, medical personnel also express their opinion on whether the restraints should be applied.

6. Based on the statistical data accumulated by the Prison Authority, the physical restraints — handcuffs — at places of deprivation of liberty during 2014, 2015 and 2016 have been used as follows:

(a) To interrupt unlawful actions of a convicted person and prevent violent behaviour at places of deprivation of liberty handcuffs were used 105 times in 2014, 107 times — in 2015, and 31 times — in 2016 (within the time period from January 1 till October 31);

(b) To guard the convicted persons during medical examination in a health care facility outside the prison handcuffs were used 23 times in 2015, 68 times — in 2016 (within the time period from January 1 till October 31).

7. In accordance with Article 508 of the Code on Enforcement of Sentences a life-sentenced inmate may be handcuffed during the transfer within the prison territory, if he/she endangers officers accompanying him/her during the transfer, or there are reasonable grounds to believe that an inmate may escape. The individual risk assessment commission which is set up by the Head of the prison provides an individualised assessment on whether a life-sentenced inmate may endanger others and therefore should be handcuffed during the transfer.

8. In addition, pursuant to Article 508 of the Latvian Code on Enforcement of Sentences the afore-mentioned commission carries out an assessment of each life-sentenced prisoner at least every six months. During the assessment the level of danger posed by an inmate and the need for application of special means — handcuffs — are thoroughly examined. The opinion of the inmate concerned is also heard.

9. During the period from 2014 until 2016, the administration of the Daugavgrīva Prison carried out an individualised assessment of 49 life-sentenced inmates, deciding whether the special measures — handcuffs — should be applied during the inmates' transfer within the prison territory. After thorough consideration, the administration of the Daugavgrīva Prison decided not to apply handcuffs on any of the afore-mentioned 49 life-sentenced inmates.

10. As regards the measures taken to improve material conditions in the places of deprivation of liberty, the Government would like to note that in May 2016, the Law on Procedure of Keeping Apprehended Persons was amended and additional requirements improving conditions in the short-term detention facilities were introduced. More specifically, the amendments foresee that:

- A short-term detention facility must be equipped with a yard measuring not less than 15 square metres for outdoor walks;
- Apprehended persons who are kept in the detention facility for more than 24 hours are entitled to take at least a 1-hour outdoor walk;
- Persons who have been apprehended under the provisions of the Immigration Law are kept separately from those apprehended in the course of criminal proceedings;
- Apprehended foreigners have the right to meet with his/her state diplomatic or consular official;
- It is prohibited to smoke in the short-term detention facility;
- In addition, the afore-mentioned amendments introduce legal grounds for the installation of video surveillance system in short-term detention facilities.

11. During 2014-2016, major repair and renovation works have taken place in 10 Latvian imprisonment facilities. Generally, the repair works were related to in-cell refurbishment, as well as the improvement of the facilities' infrastructure (see Annex 1).

12. Also in 2016, within the framework of the financial cooperation project implemented by the Ministry of Justice and the Government of Norway, major renovation works were carried out in 10 short-term detention facilities of the State Police, namely, in the Latvian cities of Ogre, Jelgava, Bauska, Jēkabpils, Cēsis, Gulbene, Rēzekne, Liepāja, Aizkraukle and Saldus.

13. In particular, the cells were equipped with anti-vandal secure in-built furniture (benches, beds, tables) and anti-vandal sanitary appliances, and the partition of the in-cell toilet was installed. In addition, the window system was renovated by replacing metal bars with impact resistant glass; water supply, sewerage, ventilation and electricity systems were repaired. All short-term detention facilities were properly equipped with the yard space for outdoor walks and necessary outdoor furniture (benches, roofs). For security reasons video surveillance system was installed in all short-term detention facilities.

14. In addition, in 2016, 11 holding cells of the State Police were renovated in Rīga (Brasa, Ziemeļi, Centrs, Latgale, Kurzeme and Zemgale Precincts), as well as in the cities of Baloži, Olaine, Salaspils, Saulkrasti and Sigulda. Necessary in-cell refurbishment works were carried out, as well as ventilation, natural and artificial lightning was repaired, and video surveillance system was installed.

15. As regards the number of supervisory personnel at places of deprivation of liberty the Government would like to provide as follows. Firstly, as regards the investigation prisons, that is, the Rīga Central Prison and the Liepāja Prison, the number of supervisory staff positions for officials with special service ranks in both investigation prisons was 408 on 1 April 2014; out of them, in fact, 340 positions were occupied. On 1 September 2016, the total number of supervisory staff positions in both investigation prisons was 464, out of which 411 were occupied.

16. Secondly, as concerns Latvian prisons, on 1 April 2014, there were 1478 positions of supervisory personnel in total, out of which 1417 positions were occupied. On 1 September 2016, there were 1371 supervisory staff positions, out of which 1325 were occupied. In this respect the Government draws the Committee's attention that on 1 November 2014, the Šķirotava Prison was closed, the supervisory staff positions were partially transferred to other Latvian prisons, including the investigation prisons, and the total number of the supervisory staff has decreased. Therefore, taken into account the fact that the number of imprisoned persons steadily decreases (for instance, on 1 April 2014, there were 5115 inmates, but on 1 September 2016 — 4227 inmates), the Prison Authority does not consider it necessary to increase the number of supervisory officials. The vacant positions are successfully filled in cooperation with the State Employment Agency that regularly advertises and updates vacancies, and the State Police College that organises information events for candidates about vacant posts in prisons.

17. As concerns the number of supervisory personnel in the short-term detention facilities, the Government informs that currently there are no plans to increase the number of employees. The apprehended persons are kept, if possible, in separate cells that excludes any possible violence between detainees, and therefore an increase in the number of personnel is not envisaged. In order to ensure safety and security in the short-term detention facilities, modern technology solutions are to be put in place, for instance, video surveillance. Currently, the national authorities develop necessary legal framework for installing video surveillance and processing the acquired video data.

As regards paragraph 19 of the Concluding Observations

18. The Government would like to reiterate that the necessary legal framework for combatting national or ethnical hatred has been already adopted and is operable. In addition, the Government reiterates that the wording of Article 150 (Inciting to Social Hatred and Enmity) of the Criminal Law ensures that it can be applied sufficiently broadly, including to prosecute for hate crimes due to victim's sexual orientation or gender identity, disability

or age. In 2015 one criminal case and in 2016 — five criminal cases were initiated under Article 150 of the Criminal Law.

19. In October 2014, the Criminal Law was amended and Article 1491 that foresees criminal liability for violation of the prohibition of discrimination based on racial, national origin, ethnic, religious or any other ground if such actions caused substantial harm was introduced. A perpetrator may be sentenced to a deprivation of liberty of up to one year or short-term deprivation of liberty or community service, or a fine. Depending on the graveness of the crime (for example, if committed by an organised group, or using automated data processing system), a person may be sentenced to a deprivation of liberty up to three years or short-term deprivation of liberty or community service, or a fine.

20. Article 1491 of the Criminal Law is applied in the situations when a person violates the prohibition of discrimination which is provided by the specific legal provisions (lex specialis). For instance, Article 7 of the Labour Law provides that everyone has equal rights to work, to safe and fair working conditions, as well as to fair remuneration. These rights are ensured without any discrimination based on sex, race, colour, age, disability, religion or belief, political affiliation, national origin, ethnicity, sexual orientation or any other ground. Since October 2014, there have been no criminal proceedings initiated under Article 1491.

21. If a violation of the prohibition of discrimination does not cause substantial harm and therefore does not fall under the provisions of the Criminal Law, a perpetrator can still be held liable pursuant to the Code on Administrative Offenses. Namely, Article 20414 provides that if the prohibition of discrimination has been violated, a person may be fined in the amount of 140 EUR up to 700 EUR.

22. The Government wishes to underline that the legal provisions described in the preceding paragraphs are applicable without distinction based on the alleged perpetrator's occupation or political affiliation. In other words, any person, including a politician, may be subject to criminal or administrative liability for his/her acts that constitute a violation of the legal provisions penalising hate crimes.

23. The State Police College continues professional training programmes for the State Police officers on different human rights issues, including those related to identification and investigation of hate crimes. In addition, the State Police elaborated draft guidelines on identification and investigation of hate crimes.

24. The Government draws the Committee's attention that when dealing with cases of incitement to hatred, the national courts thoroughly assess the circumstances of each case in order to strike a fair balance between the fight against hate speech and the protection of freedom of expression. The approach taken by the national courts excludes from the protection of freedom of expression those comments which amount to hate speech and undermine the fundamental values of democratic society.

25. For instance, in applying Article 78 of the Criminal Law, the national courts have adjudicated matters involving abusive and racist comments that were posted online in social networks and news portals and which targeted different ethnic groups, such as Latvians[1], Jews[2], Russians[3] and Roma people[4].

26. In particular, by its judgment of 22 January 2014, the Rīga City Kurzeme District Court conditionally sentenced a person for committing a crime envisaged by Article 78 of the Criminal Law. In the relevant criminal proceedings the domestic court found that the

[1] See, for example, the judgment of 17 December 2014 of the Rīga City Kurzeme District Court in the case No. 11840001414. The judgment of 11 December 2014 of the Rīga City Latgale District Court in the case No. 11840001513. Available at (in Latvian): https://manas.tiesas.lv/eTiesasMvc/lv/nolemumi.

[2] See, for example, the judgment of 18 September 2014 of the Rīga City Zemgale District Court in the case No. 11840003713. Available at (in Latvian): https://manas.tiesas.lv/eTiesasMvc/lv/nolemumi.

[3] The judgment of 22 January 2104 of the Rīga City Kurzeme District Court in the case No. 11840004913. Available at (in Latvian): https://manas.tiesas.lv/eTiesasMvc/lv/nolemumi.

[4] The judgment of 7 May 2015 of the Valmiera District Court in the case No. 11840003614. Available at (in Latvian): https://manas.tiesas.lv/eTiesasMvc/lv/nolemumi

accused had posted comments on the internet news portal which incited hatred against specific group of people based on their ethnic origin. Thus, the domestic court concluded that the comments published by the accused amounted to incitement to hatred and therefore were removed from the protection of freedom of expression[5].

27. By its judgment of 6 June 2014, the Rīga City Latgale District Court sentenced a person to imprisonment of four months for publishing online comments that were negative, abusive, insulting and targeted at certain ethnic groups.[6] By its judgment of 18 September 2014, the Rīga City Zemgale District Court ruled that in case abusive and hateful online comments were re-posted, a person who has made a re-post is liable for the content of the comments if they amount to hate speech[7].

28. In accordance to the domestic case-law Article 78 of the Criminal Law is also applicable to criminal cases that involved sending hate mail to government officials[8], and carrying out illegal activities at places of worship[9].

29. The statistical data show that nearly all criminal offenses under Article 78 of the Criminal Law investigated during 1 April 2014 and 30 September 2016 were committed by using automated data processing system. Pursuant to statistical data of the Prosecutor General Office, the criminal offenses under Article 78 of the Criminal Law investigated during 1 April 2014 and 31 December 2016 were committed in the majority of cases on racial, national and ethnic grounds, and in three cases — on religious grounds (see statistical data in Annex 2).

30. As regards compensations paid to the victims of hate crimes, the Government first of all notes that in the majority of the criminal proceedings on hate crimes no specific victim is identified in the national courts' rulings. The statistics show that during 2014-2016 only in the criminal proceedings No. 11094119210[10] the national court indicated exact amount of compensation granted to seven victims of the crime committed by two accused persons under Article 78 of the Criminal Law.

31. Article 350 of the Criminal Procedure Law foresees that if a victim of a crime is of a view that a compensation which has been paid by a perpetrator for the harm sustained as a result of the crime is not sufficient, the victim may lodge a civil claim with the national court. The domestic case-law shows that the persons who have suffered from racial discrimination have used this remedy to successfully obtain the compensation from the perpetrator in civil proceedings[11].

32. In March 2016, the amendments to the Criminal Procedure Law were adopted introducing a list of specially protected victims in the criminal proceedings who are guaranteed an increased level of protection. In particular, Article 961 of the Criminal Procedure Law provides that inter alia a person who has suffered from a criminal offense committed on the grounds of racial, national, ethnic or religious hatred is considered as a specially protected victim. Pursuant to Article 961 of the Criminal Procedure Law, the rights of the specially protecting person include the right to be notified about the release or escape of a convict or a detainee on remand who has caused substantial harm to a victim if

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[5] Supra 3.

[6] The judgment of 6 June 2014 of the Rīga Regional Court in the case No. 11840001013. Available at (in Latvian): https://manas.tiesas.lv/eTiesasMvc/lv/nolemumi.

[7] Supra 2.

[8] The decision of 24 April 2014 of the Supreme Court in the case No. 11840000811. Available at (in Latvian): https://manas.tiesas.lv/eTiesasMvc/lv/nolemumi.

[9] The judgment of 26 January 2015 of the Rīga Regional Court in the case No. 11094119210. Available at (in Latvian): https://manas.tiesas.lv/eTiesasMvc/lv/nolemumi (a part of the judgment is not yet in force yet).

[10] The judgment of 26 January 2015 of the Rīga Regional Court in the case No. 11094119210. Available at (in Latvian): https://manas.tiesas.lv/eTiesasMvc/lv/nolemumi.

[11] The judgment of 9 April 2003 of the Department of Civil Cases of the Supreme Court in the case PAC-244. See more about the judgment in the Supreme Court's Report on the domestic case-law in the criminal matters concerning incitement to national, ethnic and racial hatred, p.12, Riga, 2012. Available at (in Latvian): http://at.gov.lv/lv/judikatura/tiesu-prakses-apkopojumi/kriminaltiesibas/.

there is a threat to the victim, and there is no risk of harm to the convict or the detainee on remand.

As regards paragraph 20 of the Concluding Observations

33. During 2013-2016, within the framework of education development policy the Latvian Language Agency, an institution supervised by the Minister of Education and Science, supported 615 teachers of the minority pre-school institutions in improving their Latvian language proficiency. During 2013-2016, 1245 teachers of the minority educational institutions have participated in the study course on the pre-school bilingual pedagogical process. Such systematic support continues to take place, and it is planned to provide multi-disciplinary studies of the Latvian language and methodology to approximately 200 pre-school teachers and pedagogical staff annually. In total, the Latvian Language Agency provides different methodological trainings for approximately 1700 teachers annually.

34. Since 2004, the Latvian Language Agency has developed a new programme targeting parents of those children who attend schools that implement ethnic minority education programmes. This new programme is in high demand, as it not only helps improving the Latvian language proficiency, but also provides the parents with a deeper understanding of the educational reforms that have been carried out in the country. By providing the Latvian language studies it also contributes to establishing close and positive parent-child relationship, as children already master the language at a relatively high level. In total, during 2010-2012, approximately 300 parents have undergone the Latvian language courses organised by the Latvian Language Agency. As for now, the Latvian language courses are provided by local municipalities, and the Latvian Language Agency contributes by furnishing necessary learning tools and instructing teachers.

35. In order to improve the accessibility of the Latvian language studies, in 2013, the Latvian Language Agency created a webpage for teachers and students who wish to learn the Latvian language[12]. The webpage is equipped with various teaching and methodological materials for A1-B2 language learners. This frequently updated webpage provides a list of reading, listening, writing exercises, grammar topics, audio and video recordings for learners with the language level of A1-B2. During 2017-2019, the Latvian Language Agency intends to prepare the distance learning course of Latvian as a foreign language via website lva.classflow.lv, including self-education resources for youth and adults.

[12] The web page operates within the Latvian Language Agency's website www.valoda.lv.